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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,992	04/08/2004	Michael A. Keith	4735	9045
33417	7590	01/18/2007	EXAMINER	
LEWIS, BRISBOIS, BISGAARD & SMITH LLP 221 NORTH FIGUEROA STREET SUITE 1200 LOS ANGELES, CA 90012			PARSLEY, DAVID J	
		ART UNIT	PAPER NUMBER	
		3643		
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/18/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/820,992	KEITH ET AL.	
	Examiner David J. Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 November 2006.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 11-16-06 and this action is final.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7/1, 8/1 and 10/1 are rejected under 35 U.S.C. 103(a) as being unpatentable

over U.S. Patent No. 5,898,125 to Mangolds et al. in view of U.S. Patent No. 3,081,703 to Kamp et al.

Referring to claim 1, Mangolds et al. discloses a less lethal projectile – at 15, adapted to be loaded into a cartridge case – at 12, to form a loaded cartridge – see figures 1 and 4, the less lethal projectile comprising a hollow body container – at 15, having a closed front end and an open rear end – see at 15 in figure 4, filled with a high-density filler – at 18-32, a closure – at 26,36,38,54,71,74, located in the open rear end of the hollow body container to seal the filler in the container – see figure 4. Mangolds et al. does not disclose a bore rider stabilizer attached

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directly to the rear of the projectile, the bore rider stabilizer comprising a fabric or film having a low coefficient of friction. Kamp et al. does disclose a bore rider stabilizer – at 11-13, attached directly to the rear of the projectile – at 10 see for example figures 1-4, the bore-rider stabilizer comprising a fabric or film having a low coefficient of friction – see for example figures 1-4 where items 11,13 are a thin layer of material and thus are deemed to comprise a film. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Mangolds et al. and add the bore rider stabilizer of Kamp et al., so as to allow for increased aerodynamic efficiency and reduction of muzzle velocity of the device.

Referring to claim 7/1 Mangolds et al. as modified by Adelman further discloses the closure – at 38, comprises a round, drum shaped body – see figure 4, having a hole in the center – see figure 4 and a circumferential groove – see at the ends of 38, and an o-ring – at 26,36, fitted into the circumferential groove – see figure 4 of Mangolds et al.

Referring to claim 8/1, Mangolds et al. as modified by Kamp et al. further discloses the bore rider stabilizer – at 11,13, comprises a plurality of tail lobes – at 13 – see for example figures 1-4 of Kamp et al. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Mangolds et al. as modified by Kamp et al. and add the plurality of tail lobes of Kamp et al., so as to allow for increased aerodynamic efficiency and reduction of muzzle velocity of the device.

Referring to claim 10/1 Mangolds et al. as modified by Kamp et al. further discloses two layers – at 34 and 76, a first fabric layer – at 34 and a second layer – at 76, having a low coefficient of friction – see for example column 5 lines 17-55 of Mangolds et al.

Claim 12/1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mangolds et al. as modified by Kamp et al. as applied to claim 1 above, and further in view of Brunn et al. Mangolds et al. as modified by Kamp et al. does not disclose a fabric container having a loose weave, which allows radial expansion upon impact. Brunn et al. does disclose fabric container – at 32, having a loose weave, which allows radial expansion upon impact – see for example column 2 lines 49-60. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Mangolds et al. as modified by Kamp et al. and add the fabric container of Brunn et al., so as to allow for the device to be made non-lethal.

Claims 4/1, 5/1, 6/1 and 9/1 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mangolds et al. as modified by Kamp et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,450,795 to Adelman.

Referring to claim 4/1, Mangolds et al. as modified by Kamp et al. does not disclose the body of the container is made of a woven fabric, plastic or rubber. Adelman does disclose the body of the container is made of a woven fabric, plastic or rubber – see for example column 3 lines 6-20. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Mangolds et al. as modified by Kamp et al. and add the container made of woven fabric, plastic or rubber of Adelman, so as to allow for the device to be non-impenetrable upon impact.

Referring to claim 5/1, Mangolds et al. as modified by Kamp et al. does not disclose the high density filler is steel, lead, ceramic shot, silica beds, metal bead, metal powder or mixtures thereof. Adelman does disclose the high density filler – at 20, comprises steel, lead or ceramic shot, silica beads, metal beads, metal powder or mixtures thereof – see for example column 3

lines 21-45. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Mangolds et al. as modified by Kamp et al. and add the high density filler of Adelman, so as to allow for the device to be of sufficient weight for stable flight and impact.

Referring to claim 6/1, Mangolds et al. as modified by Kamp et al. does not disclose the high-density filler is contained within a frangible pouch or capsule or formed into a pellet. Adelman does disclose the high-density filler is contained within a frangible pouch or capsule or formed into a pellet – see for example figure 5 and column 3 lines 7-45. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Mangolds et al. as modified by Kamp et al. and add the high-density filler in the pouch or capsule of Adelman, so as to allow for the device to be non-penetrable.

Referring to claim 9/1, Mangolds et al. as modified by Kamp et al. does not disclose the bore rider stabilizer is a single layer of material made of high density polyethylene, ultra high molecular weight polyethylene, polytetrafluorethylene coated glass cloth or 3-5 mil polyester. Adelman further discloses the bore rider stabilizer is a single layer of material made of high density polyethylene, ultra high molecular weight polyethylene, polytetrafluorethylene coated glass cloth or 3-5 mil polyester – see for example column 3 lines 46-66. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Mangolds et al. as modified by Kamp et al. and add the bore rider stabilizer of Adelman, so as to allow for increased aerodynamic efficiency and reduction of muzzle velocity of the device.

***Allowable Subject Matter***

3. Claim 11/1 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2, 3, 4/2, 4/3, 5/2, 5/3, 6/2, 6/3, 7/2, 7/3, 8/2, 8/3, 9/2, 9/3, 10/2, 10/3, 11/2, 11/3, 12/2 and 12/3 are allowed.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 4/1, 5/1, 6/1, 7/1, 8/1, 9/1, 10/1, 11/1 and 12/1 have been considered but are moot in view of the new ground(s) of rejection. A different reference US 3081703 to Kamp et al. is used to disclose the stabilizer is attached directly to the rear of the projectile as stated above in paragraph 3 of this office action.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Parsley  
Patent Examiner  
Art Unit 3643